In The

Supreme Court of the United States

October Term, 1961
No. 15

THE WESTERN UNION TELEGRAPH COMPANY,

Appellant

vs.

THE COMMONWEALTH OF PENNSYLVANIA, BY SIDNEY GOTTLIEB, ESCHEATOR,

Appellee

APPEAL FROM THE SUPREME COURT OF PENNSYLVANIA

BRIEF FOR APPELLEE

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TABLE OF CONTENTS

TABLE OF CITATIONS

CONSTITUTION AND STATUTES:

COUNTER-STATEMENT OF QUESTIONS INVOLVED

1. Were the contacts of the Commonwealth of Pennsylvania with the transactions in this case sufficient to support the judgment of escheat to the Commonwealth of the obligations arising from such transactions?

2. Did the Pennsylvania escheat statute and the proceedings herein in the court below under the said statute comply with the due process clause of the Fourteenth Amendment to the Constitution of the United States?

3. Does the judgment in escheat herein come within the Full Faith and Credit Clause?

COUNTER-STATEMENT OF THE CASE

The appellant, The Western Union Telegraph Company, is a New York corporation, and operates throughout the United States.

Part of appellant's business is what it calls a "telegraph money order service". In the course of this service, it receives money at any one of its offices from persons who wish to send money to other persons, and, for a charge, transmits the money to the other persons by means of the telegraph money order service.

The transmission of money by telegraph money orders is substantially as follows:

The person who wants to send money to another comes to a Western Union office and fills out one of the latter's printed application forms, variously denominated in the forms as a "Money Transfer" (R. 65, 69) or a "Money Order" (R. 75). The sender then gives the appellant's clerk the amount to be sent, together with appellant's charges, as calculated by the clerk (R. 17). The printed form of application in each case states that if payment can not be made within a specified time (72 hours in most cases, 5 days or 10 days in all other cases), the money order will be canceled and refund made to the sender (R. 85, 86, 87). This provision for refund does not include the appellant's charges.

Upon receiving the amount of the money order from the sender, together with the amount of appellant's

charges, the appellant's clerk telegraphs to the company's office geographically nearest the payee named in the money order, directing that office to make payment of the specified amount to the named payee.

In most cases, payment is effected. In a number of instances, however, payment of the moneys to the payee can not be effected within the period of 72 hours, or 5 or 10 days, as the case may be, and the senders are then entitled to a refund of the amount of their money orders. Again, in most cases, refund to the senders is effected. In a number of instances, however, refund can not be effected.

The appellant has for a long time been authorized to do business in Pennsylvania, and has carried on its money order service in Pennsylvania. The present case relates to instances in which the appellant, at its places of business in Pennsylvania, received moneys from persons in Pennsylvania for transmittal to other persons, some in Pennsylvania, some outside Pennsylvania, and was unable to effect payment to the payees within the specified time of 72 hours, or 5 days or 10 days, and was also unable thereafter to effect refund to the senders.

More than seven years have elapsed since those senders have been entitled to the refund. During the said period, the whereabouts of the persons entitled to the amounts of the money orders have been unknown, and the said amounts have been unclaimed.

Under the provisions of the Pennsylvania escheat statute, the Commonwealth filed a petition for escheat in the court having jurisdiction under the statute, naming the appellant as respondent.

The respondent filed an answer, setting up issues of fact and raising questions of law.

The court entered an order, fixing a time and place for hearing, and directing that notice of the time and place fixed for hearing be given by posting and publication, in a form prescribed by the court. (As directed by Statute, R. 12, 13.)

Notice in the form required by the court's order was posted and published, as directed by the court.

Hearing was held at the time and place fixed for hearing, and proclamation was made to all persons having an interest in the subject matter of the proceeding to appear and be heard. No claim was made at the hearing.

After hearing, the court held that the obligations arising from the receipt by the appellant in Pennsylvania of moneys for the money orders constitute property subject to escheat to the Commonwealth, and that the proceedings complied with the requirements of the due process clause of the Fourteenth Amendment to the Constitution of the United States. The court accordingly entered a judgment that the said property had escheated to the Commonwealth.

SUMMARY OF ARGUMENT

I.

Under Pennsylvania's Escheat Statute, the obligations of the appellant in this case were subject to escheat to the Commonwealth. The Commonwealth was justified in exercising its power of escheat because it had sufficient contacts with the transactions giving rise to such obligations. The appellant maintained places of business in Pennsylvania for its money order business; it supplied applications for money orders to be filled out at its offices in Pennsylvania by those wishing to avail themselves of its money order service; the monies to be transmitted for such persons was received by the appellant in its offices in Pennsylvania, and it there delivered receipts for the monies so deposited with it; in the conduct of its business in Pennsylvania, the appellant received the benefit and protection of the laws of the Commonwealth of Pennsylvania, including the right to plead the Pennsylvania Statute of Limitations.

The appellant was amenable to process in Pennsylvania at the time of the institution of the escheat action, and was served with process in Pennsylvania in the within action; it filed an answer in the said action to the petition in escheat.

Since the Commonwealth of Pennsylvania had sufficient contacts to justify the escheat of the said obligations, it is immaterial that the appellant is a corporation of the State of New York, and that the domicile

of the owners is unknown. The state of incorporation does not have a superior right of escheat, depriving the Commonwealth of Pennsylvania of the right to escheat obligations as to which the "sufficient contacts" existed. The State of New York itself, by its legislature, by its courts and by its Attorney General, supports the principle that where there are "sufficient contacts", the obligations of a foreign corporation which has been served with process may be escheated.

II.

The proceedings in the present case complied with due process. The judgment in escheat was rendered after hearing, notice of which was afforded to all persons who might claim an interest in the property sought to be escheated. The statute itself is notice to all parties in interest; the seizure of the res by the service of process upon the appellant, whose obligations to the owners constitute the res sought to be escheated, constitutes notice; the notice afforded by the statute and the seizure of the res was supplemented by posting and publication in the newspapers, in accordance with the principles laid down in *Standard Oil Company vs. New Jersey*, 341 U.S. 428, *Mullane vs. Central Hanover Bank & Trust Co.*, 339 U.S. 306, and other cases.

III.

The Full Faith and Credit Clause of Article IV, Sec. 1 of the Constitution of the United States pro-

tects the appellant from any further liability as to the obligations declared escheated, and the judgment in escheat may be pleaded in any action which may be instituted against the appellant either by another state, on the ground of escheat, or by the former owners.

ARGUMENT

1. Were the contacts of the Commonwealth of Pennsylvania with the transactions in this case sufficient to support the judgment of escheat to the Commonwealth of the obligations arising from such transactions?

The Commonwealth has sufficient contacts with the transactions giving rise to such obligations to support and justify its power to escheat such obligations. As said in this case in the opinion of the Supreme Court of Pennsylvania:

> "All of the transactions which are the bases of the respondent's outstanding obligations occurred in Pennsylvania by virtue of the fact that the senders deposited their money in Western Union offices located in Pennsylvania." (R. 93)

The opinion then quoted *Connecticut Mutual Life Ins. Co. vs. Moore*, 297 N.Y. 1, 9, which said:

> "The core of the debtor obligations of the plaintiff companies was created through acts done in this state, under the protection of its laws, and the ties thereby established between the companies and the state were without more sufficient to validate the jurisdiction here asserted by the legislature."

This decision was affirmed in *Connecticut Mutual Life Ins. Co. vs. Moore*, 333 U.S. 541, where the Court

stated that the question was whether the State of New York had sufficient contacts with the transactions giving rise to the obligations. After reviewing the facts, the court said (551):

> "Certainly the relationship between New York and foreign insurance companies as to policies here under discussion is as close as that between the company and the state of incorporation."

The court then quoted the statement of the New York Court of Appeals that the core of the debtor obligations was created through acts done in New York, and that the ties thereby created were without more sufficient to validate the jurisdiction asserted by New York.

In the instant case, the core of the debtor obligations was created through acts done in Pennsylvania, and the relationship as to such obligations between Pennsylvania and the appellant is at least as close as that between the appellant and New York.

The concept of contacts as a justification for the exercise of a soverign power is not limited to the exercise of the escheat power. In *International Shoe Co. vs. Washington*, 326 U.S. 310, 320, the Court said:

> "The activities carried on on behalf of the appellant in the State of Washington were neither irregular nor casual. They were systematic and continuous throughout the years in question. They resulted in a large volume of interstate business, in the course of which the appellant received the benefits and protection of the laws of the State, including the right to resort to the courts for the enforcement of its rights. The obligation which

> is here sued upon arose out of those very activities. It is evident that these operations establish sufficient contacts or ties with the state of the forum to make it reasonable and just, according to our traditional conception of fair play and substantial justice to permit the state to enforce the obligations which appellant has incurred there."

As in the International Shoe Co. case, so here, the operation of the appellant's money order service in Pennsylvania was neither irregular nor casual. It was systematic and continuous throughout the years, and resulted in a large volume of business, in the course of which appellant received the benefits and protection of the laws of Pennsylvania, including the right to resort to its courts for the enforcement of appellant's rights. Among these benefits to which the appellant resorted was the Pennsylvania Statute of Limitations (Appellant's Answer, par. 15(2), R. 7, 8). The appellant subsequently abandoned the plea of the Statute of Limitations.

The contacts of Pennsylvania with the transactions in this case began when the sender signed an application for a money order at an office of appellant in Pennsylvania. The appellant there received the money to be transferred, and there gave a receipt to the sender. The obligation itself was incurred in Pennsylvania. The trial court held that these were extensive contacts sufficient to support the escheat of the obligations, and the Supreme Court of Pennsylvania affirmed this holding.

Whether or not the Commonwealth of Pennsylvania had sufficient contacts to support the exercise of its

right of escheat was a question of fact which the Court below determined, and such finding of fact is not reviewable. But if it were reviewable, the conclusion of the Court below is amply supported by the evidence.

The appellant seeks to disregard the contacts which the Court below held to be sufficient, and declares that some special contact or contacts are required before a state can have a right to escheat. Appellant does not, except by indirection, state what special contacts are required. It declares only that if any state has the power to escheat the moneys here involved, it is New York, the state of domicile of the appellant, "the only party to the transactions involved whose domicile is in evidence"; that the moneys received by the appellant in Pennsylvania were commingled with other funds and sent out of Pennsylvania, eventually coming to rest in New York.

Similar arguments were made by the foreign corporations in *Connecticut Mutual Life Ins. Co. vs. Moore*, 333 U.S. 541, and were rejected by this Court, which said (548, 549):

> "Appellants urge that the following considerations should be determinative in choosing the state of incorporation as the state for conservation of abandoned indebtedness, if such moneys are to be taken from the possession of the corporations. It is pointed out that the present residence of missing policyholders is unknown; that with our shifting population, residence is a changeable factor; that as the insured chose a foreign corporation as his insurer, his choice should be respected, that moneys should escheat to the soverign that guards them at the time of abandonment. As a practical

matter, it is urged that restricting escheat or conservancy to the state of incorporation avoids conflicts of jurisdiction between states at to the location of abandoned property and simplifies the corporations' reports by limiting them to one state with one law. Attention is called to presently enacted statutes in Pennsylvania, New Jersey and Massachusetts. None of these statutes apply to corporations chartered outside of the respective states. Furthermore, it is argued that the analogous bank cases have upheld escheat or conservancy by the state of the bank's incorporation. Finally, reliance is placed on the undisputed fact that the policies are payable at the out-of-state main office of the corporation, and that there claims must be made and other transactions carried on.

"These are reasons which have no doubt been weighed in legislative consideration. We are here dealing with a matter of constitutional power."

The State of New York, in whose behalf the appellant urges the exclusive power of escheat because it is the appellant's state of domicile, has itself taken the contrary position. New York, by its courts and by its Attorney General, has affirmed its right to exercise control over the transactions of foreign corporations in that state, not only in the case of *Connecticut Mutual Life Ins. Co. vs. Moore*, 297 N.Y. 1, supra, but in earlier cases as well.

In *Matter of People (Norske Lloyd Ins. Co.)*, 242 N.Y. 158, 159 (1926), the Court said:

"We think that the legislature, in allowing those foreign corporations to do business in this state

> and country, intended to treat the domestic agency as a complete and separate agency, to place it on a parity with domestic corporations, to supervise and regulate it as such."

Followed in Moscow Fire Ins. Co. vs. Bank of New York, 280 N.Y. 286, 309 (1939).

This theory was urged by the Attorney General of New York in the case of *Connecticut Mutual Life Ins. Co. vs. Moore*, 297 N.Y. 1, supra, in which he asserted, at page 7:

> "The domestic agencies of the foreign corporations are in the eyes of the law complete and separate organizations which are to be treated as domestic corporations."

These fictions resorted to by New York's highest court and by its Attorney General are not necessary, in the light of the determination by this Court that it is a state's contacts with a transaction that justify and support the exercise of its sovereign powers over the obligations arising from such transactions. Since the Commonwealth has sufficient contacts with the transactions out of which the obligations in the present case arose, and the property is within the control of the state, it may be escheated to the state.

As said in *Standard Oil Co. vs. New Jersey*, 341 U.S. 428, 345:

> "As a broad principle of jurisprudence, rather than as a result of the evolution of legal rules, it is clear that a state, subject to constitutional limitations, may use its legislative power to dispose of property within its reach, belonging to unknown persons."

Pennsylvania has exercised its legislative power in the Act of May 2, 1889, P. L. 66, Sec. 3, as amended by the Act of July 29, 1953, P. L. 986, Sec. 1 (27 P. S. 333), which provides as follows:

> "(b) Whensoever the owner, beneficial owner of, or person entitled to any real or personal property within or subject to the control of the Commonwealth, or the whereabouts of such owner, beneficial owner or person entitled, has been or shall be and remain unknown for the period of seven successive years, such real or personal property, together with the rents, profits, accretions and interest thereof or thereon, shall escheat to the Commonwealth.
>
> "(c) Whenever any real or personal property within or subject to the control of this Commonwealth has been or shall be and remain unclaimed for the period of seven successive years, such real or personal property, together with the rents, profits, accretions and interest thereof or thereon, shall escheat to the Commonwealth."

The Commonwealth of Pennsylvania has control of the obligations in this case because it can seize the obligations. It can seize the obligations because the appellant is subject to the jurisdiction of the courts of the state, and the service of process on the appellant effects such seizure.

In *Blackstone vs. Miller*, 188 U. S. 189, 206, the Court said:

> "Power over the person of the debtor confers jurisdiction."

In *Security Savings Bank vs. California*, 263 U. S. 282, 287, the Court said:

> "Seizure of the deposit is effected by the personal service upon the bank. Thereby the res is subjected to the jurisdiction of the Court."

In *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, the Court said:

> "No matter where the appellant's assets may be, since it is its obligation to pay to the escheated estate that is taken, personal service on appellant effects a seizure of that obligation . . .".

The fact that the identity and address of the owner of the obligation is unknown does not deprive the Commonwealth of its power of escheat. As said in *U. S. vs. Klein*, 106 F. 2d 213:

> "Obviously an escheat proceeding may not be defeated merely because the unknown owners can not be located."
>
> Certiorari denied, 308 U. S. 618.

In *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, supra, the Court pointed out that in *Security Savings Bank vs. California*, 263 U. S. 282, escheat was allowed as to unknown persons with possible claims to the escheated property, saying:

> "As a broad principle of jurisprudence rather than as a result of the evolution of legal rules, it is clear that a state, subject to constitutional limitations, may use its legislative power to dispose of property within its reach, *belonging to unknown persons.*" (Italics ours.)

The appellant seeks to overcome the effect of the Pennsylvania contacts with the money order transactions by asserting that the appellant's obligations were transformed into an obligation to pay at a bank outside Pennsylvania, by the issuance of drafts on banks outside Pennsylvania.

The Supreme Court of Pennsylvania held that the mere issuance of drafts did not constitute payment of the money orders, since there was no agreement between the parties to that effect (R. 92).

Neither the findings of fact nor the court's determination of the state law involves any federal question.

The appellant therefore seeks to create a federal question by asserting that the money order tariff regulations under which the appellant operates provide that payments are to be made by drafts, and that such regulations are an essential part of the contract.

However, there is nothing in the tariff regulations to require this conclusion. The money transfer and money order applications, the receipts given by appellant to senders of money, the notices to the designated payees, and the refund notices to the senders, all prepared by appellant, supposedly in accordance with appellant's money order tariff regulations, contain no wording to show that payment would be made other than in money, or that, if a draft were delivered by the appellant for the amount of the money order, such draft would constitute payment of the money order although the draft itself was not paid.

The application directs the appellant to pay so many dollars (R. 68, 75). In the later application, it is stated: "Message to be delivered with the money".

The typical receipts which the appellant gave the senders state that the appellant received from the sender "One Hundred Dollars to be paid to John Smith" (R. 70, 76).

The notice to the payee declares, "We have received a sum of money by telegraph for you. . . . Will you please call at our office . . . to receive the money as soon as possible." (R. 71, 78)

The Notice to Sender of Undelivered Money Order (R. 83) states: "The money deposited by you . . . for transmission by telegraph remains unpaid for reasons beyond our control. If you will call at our office . . . it will be refunded upon presentation of satisfactory evidence of identity". Another form of refund notice (R. 84) reads: "Your money order . . . cannot be paid for the following reason . . : The money will be refunded to you at the expiration of 72 hours unless payment is effected in the meantime".

In none of these is there any language from which may be drawn an agreement that payment may be made only by draft. It is equally manifest that there is no language from which may be drawn an agreement that if payment is made by draft, such draft shall constitute payment of the money order or of the refund.

Appellant asserts: "That the appellant, as debtor, and the sender or payee, as creditor, contracted that the delivery of a negotiable draft constituted pay-

ment, is established by the provisions of the money order tariff regulations under which Western Union operates." (Appellant's Brief, 14) However, the very language of the tariff regulations negatives the appellant's statement. An excerpt from appellant's Book of Rules states: "While the telegraph company's obligation is to pay money orders in cash, cash payments must necessarily be confined to those made over the counter. However, money order drafts may be delivered in all instances where they will tend to make the service more attractive and when the circumstances are such that delivery of drafts can safely be made." (R. 62, Exhibit D-6)

Another excerpt from the appellant's tariff regulations states: "Payment of Money Orders: Payment of money orders at the Telegraph Company's paying offices is accomplished by delivering a money order draft by messenger to payees who are known to the local office, or by notifying payees to call at the telegraph office, bringing suitable evidence of their identity, to receive the money. Payees of orders payable through banks or agencies are notified by telephone, messenger or mail to call for the money." (R. 64, Exhibit D-7)

The use of drafts by the appellant was obviously for its own purposes and convenience, and at such times as it chose to use them. Such use of drafts was a unilateral act on the part of the appellant, and affords no basis for finding that a bilateral agreement was entered into that drafts were to be issued in payment and that, if drafts were issued, they were to constitute payment even if the drafts themselves were not paid.

Even if this Court were to review the determination of the court below, the evidence in the case establishes clearly that there was no such agreement, and therefore, under the applicable Pennsylvania law, the issuance of the drafts did not discharge the obligations which arose from the money order transactions.

See also *State of New Jersey vs. U. S. Steel Corp.*, 12 N. J. 38, 45, in which the Court said:

> "The common law rule is that a check or promissory note, either of the debtor or of a third person, received for a debt, is not payment if not itself paid, except in cases where it is positively agreed to be received in payment."

The appellant asserts that the moneys received by the appellant in Pennsylvania for money orders were transferred out of Pennsylvania, and that the Commonwealth of Pennsylvania has no power to escheat the moneys which were no longer in Pennsylvania. The Supreme Court of Pennsylvania made it clear that the res was not the specific moneys received by the appellant for the money orders, but the obligations which arose out of the money order transactions. As Mr. Justice Musmanno said:

> "The Commonwealth here, in its Petition for Escheat, was not calling upon Western Union to search out the original coins and currency deposited by the senders. . . . The Commonwealth asked for the fiscal equivalent of that money.
>
> "Western Union itself does not think of money in a specific sense. When a customer wishes to transmit a monetary sum by telegraph, he fills out a Western Union form which includes such desig-

> nations as 'money transfers' and 'message to be delivered with the money'. No one assumes that by the phrase 'money transfer', Western Union is expected to actually transport to the payee the coins and currency the customer places on the counter and for which he is handed a receipt." (R. 91)

The fact that appellant has money in New York to pay the amounts of its money orders issued in Pennsylvania is immaterial. In *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, the appellant pointed out that dividend claims were paid from bank accounts maintained outside New Jersey. This Court, in a footnote, stated: "As we think these practices are not significant in determining appellant's liability for these, they will not be further discussed".

This Court also said in the same case (at page 439):

> "No matter where appellant's assets may be, since it is its obligation to the escheated estate that is taken, personal service on appellant effects a seizure of that obligation."

2. Did the Pennsylvania escheat statute and the proceedings herein in the court below under the said statute comply with the due process clause of the Fourteenth Amendment to the Constitution of the United States?

The appellant argues that the notice in this case did not satisfy the requirements of due process.

It commences by stating that notice other than by personal service can be justified only where there has been seizure or attachment of the res, and that seizure or attachment is lacking here.

The appellant confuses the question as to whether there was a seizure of the res with the ultimate question which must be determined by the Court, that is, whether the property seized has escheated. There can be no doubt that the res was seized in this case.

As stated in *Security Savings Bank vs. California*, 263 U. S. 282:

> "The fact that the claim of the state to the deposit may be defeated by the appearance of the debtor or other claimant does not prove that the claim was not seized."

In *Blackstone vs. Miller*, 188 U. S. 189, 206, the Court said:

> "Power over the person of the debtor confers jurisdiction."

In *Security Savings Bank vs. California*, 263 U. S. 282, 287, the Court declared:

> "Seizure of the deposit is effected by the personal service on the bank."

In *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, 438, the Court pointed out that the appellant company there was amenable to process at its registered office, and said:

> "This gave New Jersey power to seize the res involved here, to wit, the 'debts or obligations due to the escheated estate'. And the fact that this is immediate escheat is not significant . . .
>
> (439) "No matter where the appellant's assets may be, since it is its obligation to pay to the escheated estate that is taken, personal service on appellant effects a seizure of that obligation . . . The power to seize the debt by jurisdiction over the debtor provides not only the basis for notice to the absent owner but also for taking over the debt from the debtor."

In the instant case, the res consisted of the obligation of the appellant to refund or pay to the senders of money orders the amounts received by the appellant from them. These obligations were seized by personal service on the appellant, which was amenable to such service in Pennsylvania.

To show that the res was not seized, despite service of process upon the appellant in Pennsylvania, the appellant urges that both the petition in escheat and the notice describe moneys which were not in Pennsylvania, and could not have been seized in Pennsylvania, and that therefore there was no seizure of a res in Pennsylvania.

The appellant says these moneys could not be seized in Pennsylvania because, before the Commonwealth instituted its action in escheat, appellant had mingled the moneys with its other funds in Pennsylvania, that it had used a portion of the mingled funds to meet various operating requirements in Pennsylvania, and that any excess of such funds above these operating expenses had been transferred to appellant's accounts in banks outside Pennsylvania (Appellant's Brief, pages 7, 12).

As said by Mr. Justice Musmanno (R. 91, Opinion of Court):

> "This argument almost approaches a play on semantics. It would be difficult to find a more generic term than *money* . . .
>
> "The interpretation argued for by Western Union contradicts what the courts have often declared on this subject. The Supreme Court of the United States said in Connecticut Mutual Life Ins. Co. vs. Moore, 333 U. S. 541:
>
> "'The statutory reference to any moneys "held or owing" does not refer to any specific assets of an insurance company, but simply to the obligation of the companies to pay it'".

As Mr. Justice Musmanno pointed out, the appellant itself did not use the term "money" in a specific sense. When it engaged in and carried on the money transfer business, it did not undertake to transport to the payees named in the money orders the specific moneys received by it from the senders. To the contrary, the appellant itself points out that the moneys when received from senders were intermingled with other funds of appellant and were used for its various op-

erating requirements (Appellant's Brief, page 7). Having intermingled with its own funds the moneys received from senders of money orders, appellant could not possibly have transmitted or delivered the specific moneys to the persons named by the senders. Nevertheless, appellant throughout used the term "money transfer", and where there was a message, the money order said there was a "message to be delivered with the money". Manifestly it meant only that the appellant obligated itself to pay an amount equivalent to what it received, that is, in the words of Mr. Justice Musmanno "the fiscal equivalent of that money" (R. 91, Opinion of the Court). The appellant never deposited the specific moneys in its bank accounts. It deposited only the "fiscal equivalent" thereof in its bank accounts.

The appellant next asserts that the res in the present case consisted of drafts given by appellant in payment of its money orders, or in payment of refunds to the senders, that the drafts were payable outside Pennsylvania, and that there was nothing to be seized in Pennsylvania. Again the appellant disregards the determination of the court below that when the appellant, in Pennsylvania, received moneys from a sender of a money order, and agreed that if payment of the money order could not be effected, it would refund to the sender the amount received from him, an obligation on the part of the appellant to refund the moneys to the sender was created in Pennsylvania, and that this obligation was not satisfied or extinguished by issuance of a draft which was itself not paid.

The res, the obligations created in Pennsylvania upon the receipt by appellant of moneys for trans-

mission by its money order service, to refund the amounts so received to the senders if the transmission could not be effected, was seized by the personal service on the appellant in Pennsylvania.

The escheat notice fully described the property, as follows (Record page 12, fifth paragraph):

> "The property sought to be escheated consists of amounts held and owing by The Western Union Telegraph Company, the defendant above-named, arising from the receipt by it of various sums from divers persons for transmittal to other persons by the use of the defendant's money orders, and refundable to the senders because the defendant could not effect payment to the senders."

It is manifest that the language in the notice properly identified the property sought to be escheated. As said in *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, 433:

> "It (the notice) described the property in accordance with the state court's understanding of the requirements of N. J. Rev. Stat. 2:53-21, and clearly indicated that the petition was one for escheat . . . Here, it is the statute itself, as interpreted by the state court, which requires what we think is adequate notice."

In the present case, the Supreme Court of Pennsylvania held that the notice was adequate.

The appellant seeks to impose upon the Commonwealth rigorous and extreme rules as to notice on the ground that due process so requires. The cases hold otherwise.

In *Ownbey vs. Morgan*, 256 U. S. 96, 110, 111, the Court said:

> "The due process clause does not impose upon the states the duty to establish ideal systems for the administration of justice, with every modern improvement and with provisions against every hardship that may befall. It restrains state action, whether legislative, executive or judicial, within bounds that are consistent with the fundamentals of individual liberty and private property, including the right to be heard where liberty or property is at stake in judicial proceedings. But a property owner who absents himself from the territorial jurisdiction of a state, leaving his property within it, must be deemed ex necessitate to consent that the state may subject such property to judicial process to answer demands made against him in his absence, according to any practicable method that may be reasonably adopted . . .
>
> "Its (the 14th Amendment's) function is negative, not affirmative, and it carries no mandate for particular measures of reform."

In *Anderson National Bank vs. Luckett*, 321 U. S. 233, 246, in an action of escheat, the Court said:

> "What is due process in a procedure affecting property interests must be determined by taking into account the purposes of the procedure and its effect upon the rights asserted and all other circumstances which may render the proceeding appropriate to the nature of the case."

In *Mullane vs. Central Hanover Bank & Trust Co.*, 339 U.S. 306, the Court recognized the vital interest of the state in determining the interests of persons unknown, saying:

> "A construction of the Due Process Clause which would place impossible or impractical obstacles in the way could not be justified."

Taking into account the purpose of the procedure in this case, and the fact that no personal judgment against the unknown owners was sought or rendered, there was in this case no lack of due process.

The escheat statute itself is a form of notice. As said in *Anderson National Bank vs. Luckett*, 321 U. S. 233, 243, 88 L.Ed. 692:

> "The statute itself is notice to all depositors of banks within the state, of the conditions on which the balances of inactive accounts will be presumptively abandoned and their surrender to the state compelled. All persons having property within a state and subject to its dominion, must take note of the statutes affecting the control or disposition of such property, and the procedure they set up for those purposes."

Seizure of the res is itself notice. As said by the lower court in *Hollingsworth vs. Barbour*, 29 U. S. 466, 475, affirmed by the Supreme Court:

> "The law regards the seizure of the thing as constructive notice to the whole world, and all persons concerned in interest are considered as affected by this constructive notice."

The principle was reaffirmed in *Anderson National Bank vs. Luckett*, supra, at page 245. The court there said:

> "In all such proceedings the seizure itself is itself a form of notice of the claim asserted, to those who may claim an interest in the property. See Corn Exchange Bank vs. Coles, 280 U.S. 218, holding constitutional a statute providing for no notice to the owner of a bank deposit other than its seizure."

What is seizure of a debt or other obligation is explained in *Security Savings Bank vs. California*, supra, which stated:

> "Seizure of the res is effected by the personal service upon the bank."

Cited with approval in *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, 439, which said:

> "Since it is its obligation to pay to the escheated estate that is taken, personal service on appellant effects a seizure of that obligation . . . That power to seize the debt by jurisdiction over the debtor provides (not only) the basis for notice to the absent owner."

In the present case, personal service was made upon the Appellant, and effected a seizure of the obligations.

The appellant states that there was a lack of due process because no notice was given by mail to possible claimants whose last known addresses were available. It states that "the three cent expenditure for a post card is certainly not too great".

It must be remembered that if the names and addresses were available, they were available to the appellant for at least seven years before the escheat action was instituted, and if a three cent post card would have reached the interested parties, the appellant could have sent the post card before the escheat action was commenced. In appellant's own words, "the three cent expenditure for a post card is certainly not too great". (Parenthetically, it may be noted that during the period prior to the escheat action, the appellant could have sent a post card for two cents or perhaps even for one cent.)

It is possible that if the appellant had mailed such a post card during the seven year period before the escheat action was instituted, payment might have been effected. Instead, the appellant chose not to do so, but preferred instead to allow a period of six years to pass, so that, as set forth below, it might assert the plea of the Statute of Limitations and claim title for itself.

The record shows that when the escheat action was instituted, it would have been fruitless for the Commonwealth to have mailed post cards to the addresses supplied by the appellant.

In the appellant's answer to the petition in escheat, it made it clear that though it had addresses of senders and payees at one time, the whereabouts of such persons were unknown when the escheat petition was filed. In paragraph 13 of its Answer (R. 6), the appellant pleaded as follows:

> "It is averred that in each instance in which the defendant at its offices and places of business

> in Pennsylvania received moneys from a person desiring to send a money order and did not effect payment or repayment as set forth in paragraph 11 hereof for more than seven years after the sender was first entitled to repayment, the whereabouts of the sender have been unknown for more than seven years . . .".

To the same effect is paragraph 14 of appellant's Answer (R. 7), except that in the latter paragraph, the appellant claimed the benefit of the Statute of Limitations. In paragraph 15 of the Answer (R. 7), the appellant claimed title to unpaid moneys, adversely to the unknown claimants and the Commonwealth. The appellant subsequently abandoned both the plea of the Statute of Limitations and its claim of title.

In *American Land Co. vs. Zeiss*, 219 U. S. 47, 67, it is stated that the criterion of due process is the just and reasonable character of the requirements, having reference to the subject with which the statute deals.

In the present case, it would not be just or reasonable to require the Commonwealth to go through the fruitless task of mailing post cards to persons whose whereabouts are unknown.

The appellant asserts that there was a lack of due process because in the published and posted notice of the proceedings, the names of the possible claimants were not set forth. A reference to the example of a list of the items shows that all but one were $15.00 or less, several being as low as $1.00 or $2.00, and the average being less than $10.00 (R. 59, 60).

The Escheat Statute, Act of May 2, 1889, P. L. 66, Sec. 8, 27 P.S. 43, provides as follows:

"The court shall have full power, at any stage of the proceedings, when they think it wise so to do, to make such orders relative to advertisements and notices of the proceedings as shall best serve to inform and advise all parties having an interest, or who may have an interest in said proceedings, of the pendency thereof."

The published and posted notice complied with the order of the Court, entered in accordance with the statute, as construed by the Court. In *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, a similar escheat statute was attacked by the appellant there. This court sustained the New Jersey statute.

The fact that the notice did not contain the names of the owners whose whereabouts were unknown did not constitute a lack of due process. In *Mullane vs. Central Hanover B. & T. Co.*, 339 U. S. 306, in a proceeding for a judicial settlement of trusts, notice was given by publication to all parties interested in the trust, *without naming them*.

The Court held that the proceeding did not violate due process, saying:

(311) "We understand that every right which beneficiaries would otherwise have against the trust company, either as trustee of the common fund or as trustee of any individual trust, for improper management of the common trust fund during the period covered by the accounting is sealed and wholly terminated by the decree . . .

(313) "The vital interest of the state in bringing any issues as to its fiduciaries to a final settle-

ment can be served only if interests or claims of individuals who are outside of the state can somehow be determined. A construction of the due process clause which would place impossible or impractical obstacles in the way could not be justified . . .

(317) "Thus it has been recognized that in the case of persons missing or unknown, employment of an indirect and even a probably futile means of notification is all that the situation permits and creates no constitutional bar to a final decree foreclosing their rights . . .

"We recognize the practical difficulties and costs that would be attendant on frequent investigations into the status of great numbers of beneficiaries, many of whose interests in the common fund are so remote as to be ephemeral; and we have no doubt that such impracticable and extended searches are not required in the name of due process. The expense of keeping informed from day to day of substitutions among even current income beneficiaries and presumptive remaindermen, to say nothing of the far greater number of contingent beneficiaries, would impose a severe burden on the plan, and would likely dissipate its advantages. These are practical matters in which we should be reluctant to disturb the judgment of the state authorities.

"Accordingly we overrule appellant's constitutional objections to published notice insofar as they are urged on behalf of any beneficiaries whose interests or addresses are unknown to the trustee."

The escheat notice is directed to all persons claiming an interest in the property sought to be escheated. The appellant declares that the notice is defective in that the holders of drafts would not know the notice applied to them, since the property sought to be escheated is described in the notice as moneys held and owing by the appellant arising from the receipt by it of various sums from divers persons and refundable to the senders thereof because the appellant could not effect payment to the sendees (Form of notice, R. 12).

This supposition is without basis. Each draft states on its face that it is for the "Amount deposited for transfer" (R. 66. 67, 68).

The appellant refers to the drafts as negotiable drafts, presumably in order that it may be inferred that the holders of the drafts may be holders for value, and that in any action brought by such holders for value after the judgment of escheat, such holders for value would not be subject to the plea of the judgment of escheat.

However, as pointed out by the court below, these drafts would be staledated and therefore not honored (Opinion of the Court, R. 94). The drafts were issued at least seven years before the institution of the escheat action on December 21, 1953, and at least thirteen years before the entry of the final decree in escheat (R. 56). The appellant itself showed that it would not honor the drafts because they were staledated. In its answer to the petition in escheat, the appellant pleaded the Statute of Limitations and averred that the appellant "therefore, is now the rightful and lawful owner of any personal property con-

cerning which the petition . . . asks the Court to decree an escheat." (Appellant's Answer, par. 15(2), R. 7, 8)

Furthermore, as set forth in appellant's Answer, paragraphs 10 and 11, none of the drafts were ever presented to the appellant for acceptance (R. 6).

The appellant seeks to place impractical obstacles in the way of the Commonwealth, so that it may be deterred thereby from exercising its right of escheat, thereby leaving to the appellant, without any right except that under the benefit of the Commonwealth's Statute of Limitations, the benefit of this unclaimed property. The Due Process Clause of the Fourteenth Amendment to the Constitution of the United States was not intended for such a result.

3. Does the judgment in escheat herein come within the Full Faith and Credit Clause?

The answer is in the affirmative. Article IV, Sec. 1 of the Federal Constitution provides:

> "Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state."

The Act of Congress approved May 26, 1790, c. 11, 28 U.S.C. 687, provides for the authentication of the judicial proceedings of the courts of a state, and declares:

> "Judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the state from which they were taken."

Under the Full Faith and Credit Clause and the Act of Congress, the plea of the judgment in escheat in the Pennsylvania court will be a valid defense in any later action against the appellant in any other court as to the same property, that is, the debts or obligations escheated, whether such later action be by the former owners of such property, or by another state seeking to obtain possession of the same property.

In *Isaacs v. Hobbs*, 282 U. S. 734, 75 L. Ed. 645, the Court followed *Wabash R. R. Co. vs. Adelbert College*, 208 U. S. 38, 54, 52 L. Ed. 379, 386, as follows:

> "When a court of competent jurisdiction has, by appropriate proceedings, taken property into

> its possession through its officers, the property is thereby withdrawn from the jurisdiction of all other courts. The latter courts, though of concurrent jurisdiction, are without power to render any judgment which invades or disturbs the possession of the property while it is in the custody of the court which has seized it."

The court which has taken property into its possession has the power to determine rights in the property. As said in *Isaacs vs. Hobbs*, supra:

> "The court originally acquiring jurisdiction is competent to hear and determine all questions respecting title, possession and control of the property."

The judgment of such court is conclusive. In *Williams vs. Armroyd*, 7 Cranch (11 U. S.) 423, 432, 3 L. Ed. 392, 395, the court said:

> "The sentence of a competent court, proceeding in rem, is conclusive with respect to the thing itself, and operates as an absolute change of the property. By such sentence, the right of the former owner is lost, and a complete title is given to the person who claims under the decree. No court of co-ordinate jurisdiction can examine the sentence."

In *Security Savings Bank vs. California*, 263 U. S. 282, 286, 68 L. Ed. 301, the court said:

> "If the deposit is turned over to the state, in obedience to a valid law, the obligation of the bank to the depositor is discharged."

In *Anderson National Bank vs. Luckett*, 321 U. S. 233, 242, 88 L. Ed. 693, it was declared:

> "Since the bank is a debtor to its depositors, it can interpose no due process or contract clause objection to payment of the claimed deposits to the state, if the state is lawfully entitled to demand payment, for in that case payment of the debt to the state, under the statute, relieves the bank of its liability to the depositors."

In *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, 442, the appellant raised similar questions as to the Full Faith and Credit Clause. The court there said:

> "Finally, we shall deal with appellant's objection that this statutory escheat takes its property without due process because it does not protect it from claims by the owners . . . or against escheat or conservation actions by other states against Standard Oil of New Jersey for the same debts or demands . . .
>
> (443) "We have indicated above that we consider the notice to the stockholders adequate to support a valid judgment against their rights as well as those of the company . . . The debts or demands represented by the stock and dividends having been taken from the appellant company by a valid judgment of New Jersey, the same debts or demands against appellant cannot be taken by another state. The Full Faith and Credit Clause bars any such double escheat."

The appellant asserts that it is not protected against further claims because the Pennsylvania escheat statute is not a mere custodial statute. However, as stated in *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, in discussing the power of the State of New Jersey to seize the debts and obligations in that case:

> "The fact that this is immediate escheat is not significant."

To the same effect is *Security Savings Bank vs. California*, 263 U. S. 282, 286, supra, in which the court said:

> "It is no concern of the banks whether the state receives the money merely as depository, or takes it as an escheat.
>
> "The suit determines the custody (and perhaps the ownership) of the deposit."

So, too, in *Anderson National Bank vs. Luckett*, 321 U. S. 233, supra, the court said:

> "All persons having property located within a state and subject to its dominion, must take note of the statutes affecting the control or disposition of such property and of the procedure they set up for those purposes."

The appellant repeats here its argument that other states may make claims of escheat on various grounds, such as domicile of the persons to whom the money orders were made payable and as to whom payment was not effected, or that the banks on which checks were drawn were located in such other states. The appellant urges most strongly the possibility that New York, appellant's state of incorporation, may make such a claim.

The appellant asserts that if the claim of more than one of these other states were upheld, the appellant would be deprived of its property without due process of law. However, in any such action, the appellant may plead the earlier judgment entered in the Penn-

sylvania court, whereby the property was withdrawn from the jurisdiction of any other court, and title vested in the Commonwealth of Pennsylvania, so that no other court can exercise jurisdiction as to such property. If, upon such plea, such other court should fail to give full faith and credit to the Pennsylvania judgment, the appellant would have the right to appeal to this court or to file a petition for writ of certiorari to compel such full faith and credit to the Pennsylvania judgment.

The appellant states that some states have already laid claim to the funds here in question. That is incorrect. Other states, such as Massachusetts, have made claim to similar moneys, that is, moneys received in Massachusetts for transmittal to other persons. The facts parallel the facts in Pennsylvania, but do not deal with the same funds. Each of these two states deals only with moneys received in that state for money orders purchased in such state.

The appellant states that New York has taken by escheat some of the funds claimed by Pennsylvania, and points to the opinion of the trial court (R. 47). This is incorrect. Nor has Pennsylvania made claim to any moneys taken by New York. To the contrary, Pennsylvania has recognized the fact that once any moneys have been taken by New York, full faith and credit must be given to its action. As said by the trial court:

> "Since this has been done, we have no jurisdiction over this sum." (R. 47)

It must be recognized that where transactions of a corporation give rise to debts or obligations, more

than one state may have sufficient contacts to support its jurisdiction over such debts or obligations, that is, that there are various kinds of sufficient contacts supporting such jurisdiction.

One kind of sufficient contacts is that seen in the present case, and in *International Shoe Co. vs. Washington*, 326 U. S. 310, supra, where a corporation of one state carries on business activities in another state, where the transactions are conducted in the latter states, where moneys are received in the latter state and the obligations are incurred there and the corporation thereby has received the benefit and protection of the laws of the second state.

Another kind of sufficient contact is that which exists between a corporation and the state of its incorporation, even though the corporation has no assets in the state of incorporation, does no business there, and the obligations are not incurred there, the corporation having merely a registered office in that state, as in *Standard Oil Co. vs. New Jersey*, 341 U. S. 428, supra.

A third kind of sufficient contact may exist where the obligee is domiciled in a state other than the state of incorporation and other than in a state where the corporation carries on business and the transaction was entered into. In such case, the sufficient contact is the contact between the state and one domiciled therein.

There may be a variety of kinds of sufficient contacts. It is not necessary that a state have all such kinds of sufficient contacts, or that it have any one particular kind of sufficient contacts. It need not have

one kind of sufficient contacts rather than another. Nor can the fact that a state has sufficient contacts of one kind render nugatory another state's sufficient contacts of another kind.

Whatever the kind of sufficient contacts a state may have, it has the power to deal with debts or obligations related to such sufficient contacts, if the obligation can be seized, that is, if the obligor is amenable to process in that state.

The appellant urges that the state of incorporation should be recognized as having the only kind of sufficient contacts, to support jurisdiction in escheat.

In this case, the state of incorporation is New York. However, as pointed out above, the courts and the Attorney General of that state, in *Connecticut Mutual Life Ins. Co. vs. Moore*, supra, *Matter of People (Norske Lloyd Ins. Co.)*, supra, and *Moscow Life Ins. Co.*, supra, have urged that where a foreign corporation does business in New York, that state has the same power, as to transactions of the corporation in New York, as it would have if the transactions were those of a domestic corporation.

The New York legislature has taken the view that it may deal with unclaimed obligations of foreign corporations. Thus, in *Connecticut Mutual Life Ins. Co. vs. Moore*, supra, the New York Abandoned Property Law, then in effect, dealt with unclaimed moneys held or owing by life insurance companies incorporated in other states, but doing business in New York. Although the New York legislature amended the New York Abandoned Property Law as late as 1960, the provision as to foreign life insurance companies remained unchanged.

It is therefore seen that the State of New York, by its judicial, legislative and executive branches, takes a view that "sufficient contacts" are not limited to that between a corporation and the state of its incorporation, or that all other states should forego the rights arising from their own "sufficient contacts".

And, as in *Connecticut Mutual Life Ins. Co. vs. Moore*, supra, certainly the relationship between Pennsylvania and the appellant is as close as that between New York and the appellant.

The appellant conjures up a specter of a race between the states, and "nibbling attacks" by the states upon the appellant, which says:

> "We do not think it necessary to suggest that the claims of those other states might be motivated by something other than solicitude for the interests of the true owners of the property." (Appellant's Brief, page 27.)

It may be said with perhaps greater accuracy that the appellant is not motivated by solicitude for the true owners or for the State of New York. As pointed out above, the appellant claimed title to the money here involved, and emphasized its concern for the owners and for the State of New York only after it decided, in its own interest, not to press its claim of title.

The appellee has received a copy of a motion of the Attorney General of New York for leave to appear herein to argue orally on behalf of the State of New York that the right of escheat should be restricted to New York, the state of appellant's domicile. How can the State of New York properly take this position, in

the light of the decision to the contrary in *Connecticut Mutual Life Ins. Co. vs. Moore*, 333 U. S. 541, and in the light of the position to the contrary of the New York legislature, its highest court, and the argument of its Attorney General in the said case?

The New York Abandoned Property Law, in force at the time this escheat action was instituted and at the time the judgment in escheat was entered, provided as follows:

> "(This Act) shall not apply to any . . . money which is the subject of any action or legal proceeding commenced by any other state claiming ownership or possession of the same as escheated property, which action or legal proceeding is pending at the time such organization is required by this section to make its report." (McKinney's Consolidated Laws of New York, Book 2½ "Abandoned Property Law", L. 1949, c. 824 as amended L. 1956, c. 228)

There was, therefore, no conflict between the Commonwealth of Pennsylvania and the State of New York as to the escheated property at the time the within escheat action was instituted and the judgment of escheat entered. The New York Statute was amended, effective March, 1960, L. 1960, c. 307, and the above provision was not included in the amendment. It is to be noted that the amendment was almost seven years after the commencement of the within action in December, 1953, and nearly a year after the entry of judgment in escheat.

The appellant states that fairness to it and among claimant states and individuals demands a fixed, defi-

nite rule which either confines the right to escheat to a single state having clear contacts to the property (such as the domiciliary state), or else forbids any proceeding which does not insure opportunity for superior claims to be successfully asserted as under a custodial statute.

The appellant seeks to have this Court lay down a set of rules codifying the law of escheat, disregarding the decisions heretofore rendered.

It must be remembered that the right of escheat is a sovereign right of the states, to be exercised by their legislatures.

As said in *Standard Oil Company vs. New Jersey*, 341 U. S. 428, 435, 436, supra:

> "As a broad principle of jurisprudence . . . it is clear that a state, subject to constitutional limitations, may use its legislative power to dispose of property within its reach, belonging to unknown persons . . . (As) the disposition of abandoned property is a function of the state . . ."

In *American Loan & Trust Co. vs. Grand Rivers Co.*, C. C. Ky. 1908, 159 F. 775, 780, the Court said:

> "Those authorities inevitably lead to the conclusion that the National government is not in any case the parens patriae to which ownerless property of any sort in any state of the Union passes. We think that within the states respectively it is the state which exclusively is parens patriae."

The same principle was recognized even as to moneys deposited in the registry of a Federal Court, in *U. S. vs. Klein*, 303 U. S. 276.

Except for constitutional limitations, the Federal government has no power to lay down such rules. Whether or not property is within the control of a state within the meaning of the state's escheat statute is a matter for determination by the state courts, subject to review by this Court only in exceptional cases.

The sovereign right of escheat has not been surrendered by the states to the Federal government.

As said in *Commonwealth vs. Reeder*, 171 Pa. 505, 513:

> "Whatever the people have not, by their constitution, restrained themselves from doing, they, through their representatives in the legislature, may do. . . . Certain grants of power, very specifically set forth, were made by the states to the United States, . . .; then come the specific restraints imposed by our constitution upon our legislature; . . . but in that wide domain not included in either of these boundaries the right of the people through the legislature to enact such laws as they choose, is absolute."
>
> Followed in *Tranter vs. Allegheny County Authority*, 316 Pa. 65, 75.

In *Wheeler vs. Smith*, 9 How. 55, 78, the Court said:

> "When this country achieved its independence, the prerogatives of the crown devolved upon the people of the states. And this power still remains with them, except so far as they have delegated a portion of it to the Federal government. . . The state, as a sovereign, is the parens patriae."

In a footnote to *Standard Oil Company vs. New Jersey*, supra, it is stated:

> "The right of the King at common law to take possession, in certain circumstances, of abandoned chattels is clear. This doctrine of bona vacantia came to include choses in action . . ."

The appellant seeks to eliminate the principles laid down in the cases that the states have the power to escheat property where it is within their reach and control, and that intangible property is within the reach and control of a state when the holder of such intangible property is amenable to process within the state, and the state has sufficient contacts with the transactions giving rise to such intangibles.

It is submitted that even if it were within the power of this Court to lay down such a set of rules, such a course is not necessary. When questions have arisen in escheat cases, the orderly course of procedure has been followed to determine these questions. It is to be noted that the determination of the highest courts of the various states, from whose decisions in escheated matters appeals have been taken to this Court, have almost invariably been affirmed by this Court.

Security Savings Bank vs. California, 263 U. S. 282;

U. S. vs. Klein, 303 U. S. 276;

Anderson National Bank vs. Luckett, 321 U. S. 233;

Connecticut Mutual Life Insurance Co. vs. Moore, 333 U. S. 541;

Standard Oil Company vs. New Jersey, 341 U. S. 428.

CONCLUSION

The judgment in escheat is valid because it deals with property within the reach and subject to the control of the Commonwealth of Pennsylvania. The res consists of moneys held and owing by the appellant, arising out of transactions in Pennsylvania, under circumstances establishing "sufficient contacts" of Pennsylvania with both the transactions and the res. The res has been seized by Pennsylvania by process served upon the appellant, and the Pennsylvania Court which issued such process had the power to determine the rights to such property.

The judgment in escheat was entered after hearing, upon notice to all parties who might have an interest in the res. The notice was manifold, consisting of the notice inherent in the statute, notice by virtue of seizure of the res, posting and publication.

There is no conflict between the Commonwealth of Pennsylvania and the State of New York as to their respective rights to the escheated property; the New York Abandoned Property Law specifically excepted from its provisions any property which New York might otherwise claim, if such property were the subject of any legal proceeding in any other state claiming ownership of the property as escheated property, at the time such property would be reportable under the New York Statute.

It is submitted that the judgment of escheat should be affirmed.

Respectfully submitted,

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